Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	

REPLY COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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SUMMARY

As the considerable record in this proceeding demonstrates, a wide array of commenters share ALTS' concern that the Commission lacks the authority to allow ILECs to establish unregulated advanced service affiliates, as proposed in the NPRM, and ALTS need not repeat those concerns here. If, however, the Commission does choose to permit such affiliates, it must strengthen the affiliate transaction and corporate structure rules that it has proposed in order to fashion an effective guard against cross-subsidization, unlawful discrimination and other anticompetitive conduct. First, the Commission should summarily dismiss ILEC arguments that they are non-dominant in the provision of advanced services, because advanced technologies deployed by the ILECs that are interconnected with the public switched network simply expand the ILECs' monopolies and their ability to disadvantage competition for advanced services.

Second, the record contains substantial support – including comments by two state commissions – for ALTS' contention that the Commission must strengthen its existing structural separations rules. In particular, the Commission must take steps to ensure that ILECs are not able to use their control of local loops to subject competitive advanced service providers to a cost-price squeeze, and must ensure that the advanced services of the ILEC or the ILEC affiliate fully recover the same measure of loop costs that CLECs must bear when they purchase unbundled loops. In addition, the Commission must ensure that the affiliates are *truly* separate from the parent, and prohibit the sharing of personnel and other corporate assets. In order to prevent the ILEC from offering preferential treatment to its affiliate, the Commission should mandate rules that will allow ILECs to "opt in" to portions of the affiliate interconnection agreement, or else should require that the affiliate interconnect through tariffed rates, terms and

conditions. Finally, *any* transfers between an ILEC and its advanced service affiliate should be prohibited.

The record demonstrates unanimous support among competitive carriers for the establishment of national standards for more effective and cost-efficient collocation. As evidenced by a recent decision by the 8th Circuit Court of Appeals, the Commission has ample authority to establish such standards. These standards should include: cageless collocation, the ability of CLECs to share collocated cages, adjacent collocation (in areas on and off the ILECs' property), common area collocation (which eliminates the need for a physical barrier between the ILEC and CLEC equipment), and smaller physical collocation arrangements. CLECs should have the unrestricted ability to cross-connect to other collocated parties. Any collocation arrangement established by an ILEC should be deemed presumptively feasible for all other ILECs. The record also supports space management rules, verification of space exhaust claims, and space availability reporting requirements. Collocators should pay only for the space preparation attributable to the space they occupy; and ILECs should pay liquidated damages and waive nonrecurring charges when they miss prescribed provisioning intervals. Finally, restrictions on the collocation of switching and Internet protocol equipment must be eliminated, and NEBS compliance requirements should be modified.

The record similarly demonstrates unanimous support among competitive carriers for additional national standards for UNEs, and provides substantial support for ALTS' "Bit-stream" UNE proposal. The Bit-stream UNE is a virtual channel from the end user premises to a point of interface designated by the CLEC, capable of carrying advanced services from a minimum of 256 kbps up to OC-48, or other speeds required by CLECs. This approach is intended to be a supplement to – and not a replacement for – other UNEs. It is technology-neutral, and allows

CLECs to circumvent technical and operational problems that may delay – or eliminate altogether – a CLEC's ability to obtain unbundled loops or other UNEs. This approach also frustrates the ILECs' demonstrated ability to manipulate their networks to disadvantage competitors, and provides an entry strategy that will permit the rapid entry of CLECs into the market for competitive advanced local services.

In addition, the Commission should define the "Extended Link" (a combination of loop, transport and central office multiplexing; or transport to and from a central office, plus multiplexing) as a UNE. This is a specific variation on the Bit-stream UNE that CLECs already have found to be an important network function. The Commission should also define digital subscriber line access multiplexers and 2- and 4-wire "clean copper" loops as UNEs. Moreover, the Commission should implement its tentative conclusion that ILECs must provide OSS access to databases that pre-qualify DSL-capable loops, and should find that ILECs may not impose on CLECs any charges for such information that they do not impose on their retail customers.

Finally, the record provides broad support for the establishment of measures to ensure compliance with the rules discussed above. The Commission should clarify that its "Rocket Docket" enforcement process is available to hear such disputes, and that injunctive relief and fines are available in cases of demonstrated violations.

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REPLY COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local Telecommunications Services ("ALTS"),[1] by its attorneys, hereby submits these replies to comments filed in response to the Notice of Proposed Rulemaking (*"NPRM"*) released in the above-captioned docket.[2]

As ALTS will demonstrate in these comments, the Commission's separate advanced services affiliate proposal is both legally questionable as well as practically infeasible, and has been challenged by the vast majority of commenters to this proceeding. Nevertheless, should the Commission choose to pursue its separate advanced services affiliate proposal, ALTS recommends the following principles.

First, the Commission should mandate that all of the network components necessary for the for end-to-end broadband access remain with the ILEC and continue to be subject to the unbundling and resale requirements of Section 251(c) of the Act. Second, ALTS suggests that the Commission both strengthen and enforce its structural separations requirements. To this end,

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1 ALTS is the national trade association representing facilities-based competitive providers of local telecommunications services.

2 *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order, and Notice of Proposed Rulemaking (rel. Aug. 7, 1998) [hereinafter "*Advanced Services Order*" and "*NPRM*", respectively]. *See* Public Notice, CC Docket Nos. 98–146, DA 98–1624 (rel. Aug. 12, 1998).

the Commission should require significant outside ownership of any ILEC advanced services affiliates. In addition, the Commission should require ILEC advanced services affiliates to obtain advanced services UNEs through a tariff, and should compel ILECs to file appropriate cost evidence 30 days prior to commencing service. ILECs and their advanced services affiliates should be prohibited from jointly owing facilities, marketing their services, or sharing brand/corporate names and administrative and billing functions. Moreover, the Commission also should adopt measures necessary to combat the ability of an ILEC to favor its affiliate through volume commitments and terms that no competitors can meet. Finally, the Commission should make clear that *any* transfer between an ILEC and its advanced services affiliate would make that affiliate an "assign" subject to the requirements of Section 251(c).

I. THE ESTABLISHMENT OF ILEC ADVANCED SERVICES AFFILIATES MUST BE ACCOMPANIED BY EXPLICIT, STRINGENT AND FULLY ENFORCEABLE SAFEGUARDS

It is significant to note that all sectors of the industry, including ILECs, IXCs and CLECs, challenge the legality and propriety of the Commission's separate affiliate proposal.[3] When such a wide array of commenters express significant reservations about a Commission proposal, the Commission ought to take pause and carefully reevaluate and justify its proposed course of action. While ALTS will not at this time comprehensively address legal arguments challenging the statutory foundation for the Commission's ILEC advanced services affiliate proposal, it maintains, as it did in its initial comments, that the proposal has no foundation in the Communications Act. In the event that the Commission nevertheless chooses to proceed in adopting some form of its ILEC advanced services affiliate proposal, ALTS believes that the

[3] *E.g.*, Ameritech Comments at 49-53; AT&T Comments at 6; ALTS Comments at 4-5.

suggestions below will make it more likely that such action would encourage local competition, the deployment of advanced telecommunications capability, and consumer choice.

A. Full Broadband Competition Depends on Much More Than Access to Conditioned Loops

Predictably, the ILECs argue that they have no market power in the provision of advanced services.[4] GTE, for example, argues that, "[b]ecause the advanced services market is so different from and unrelated to the local exchange market, ILECs have no bottleneck control over any essential input to advanced services."[5] As demonstrated in ALTS' initial comments and in the HAI White Paper appended thereto, this statement is flatly wrong. The ILECs' ubiquity creates market power: their control of loops, collocation space, interoffice transport and operations support systems ("OSS") affords them a significant advantage over and opportunity to discriminate against competitors, regardless of the specific technologies used and services provided.[6] Contrary to the arguments of GTE and other ILECs, when it comes to broadband services, the ILECs, unlike their competitors, are not starting from scratch.[7] For example, GTE's own ADSL services, as well as all other ILEC xDSL services, consist of electronics hung on its own bottleneck loops, provided from its own ubiquitous network of central offices (obviating the need for collocation) and combined, in many cases, with its own preexisting switching and interoffice transport facilities. Although the electronics may be new, they merely represent an extension of the loop.[8] When ADSL is offered over loops carried on Digital Loop carrier

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4 *See, e.g.,* GTE Comments at 2-6.

5 GTE Comments at 6-8.

6 ALTS Comments at iii; HAI White Paper at 24-25.

7 *See* GTE Comments at 2-8.

8 Indiana URC/Wisconsin PSC Comments at 16.

("DLC") systems, they are also able to access the locations of the DLC Remote Terminals, where ADSL equipment must be located. Indeed, the essential components of broadband service come from the rate-payer financed public switched telephone network ("PSTN") that GTE and other ILECs now control.

Other commenters agree with ALTS' position. For example, Qwest explains that "[t]he Commission's proposal is based on the false premise that CLECs need only have access to ILEC conditioned unbundled loops in order to compete on a broad basis in the provision of advanced services, and that they easily can duplicate the other elements of providing xDSL service. The Commission does not explain why the economics that have characterized the circuit-switched local exchange network would not apply as the network evolves to a broadband, packet network."[9] PageNet concludes that "[t]he scope of functionalities required mirrors the scope of the ILECs' current *de facto* monopolies in that it extends well beyond and is in no way limited to the local loop."[10]

Qwest, PageNet and others are correct that, in adopting Section 251(c), Congress already has mandated that ILECs make available to competitors the economies of scale inherent in the ubiquitous ILEC network.[11] Indeed, the unbundling and resale requirements of that section are not limited to ILECs' "essential" facilities or "plain old telephone service" ("POTS"), but instead apply to the ILECs' entire network and all retail service offerings. It is through this sharing of economies of scale that Congress intended to facilitate broad-based competitive entry.

Recognizing this, the Commission already has concluded that the interconnection,

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9 Qwest Comments at 10.

10 PageNet Comments at 10.

11 Qwest Comments at 8; PageNet Comments at 12.

unbundling and resale requirements of Section 251(c) apply to ILECs' "advanced services" and the facilities used to provide those services. [12] However, as Sprint, TRA and others note, the Commission's advanced services affiliate proposal threatens to limit opportunities for competitive entry by effectively foreclosing resale and UNE-based entry requiring anything more than a conditioned loop.[13] As a result, in the rural and high cost areas that are of most concern to the Commission in this Section 706 proceeding, there will be many cases where only ILECs have the economies of scale (garnered from a captive customer base and control of the PSTN) to offer advanced services. As noted by the Indiana and Wisconsin Commissions and others, the Commission's ILEC advanced services affiliate proposal thus threatens to extend the ILEC monopolies into advanced services.[14] Moreover, without the additional demand for ILEC advanced services and functions that will be stimulated by unbundling and resale, even the ILECs will be severely constrained in bringing broadband "last mile" facilities to rural and high cost communities.[15]

Finally, it is significant to note that the ILECs themselves supply arguments in support of ALTS' view that the ILECs have significant inherent advantages in the provision of broadband

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12 *Advanced Services Order*, ¶¶ 32, 52-58 As expected, the record demonstrates a need for the Commission to elaborate so that technology-based arguments around its requirements can be dismissed. For example, despite the Commission's discussion of "other network elements" (in addition to conditioned loops), GTE believes that "[a]nalysis under Section 251(d)(2) demonstrates that the only network element that an ILEC must offer on an unbundled basis for the provision of advanced services is an xDSL-conditioned loop .... not including the electronics that attach to the loop." GTE Comments at 102-103. Clearly, the Commission did not intend for the subset of "other" advanced services network elements to be a subset of none.

13 Sprint Comments at 31; TRA Comments at 9, 12.

14 *See* Indiana URC/Wisconsin PSC Comments at 6-7, 11.

15 *See* Qwest Comments at 17-18 (discussing U S West's explanation of factors which limit its xDSL roll out to the largest cities in its region).

services. Bell Atlantic underscores ALTS' position by noting that "the most efficient way for incumbent carriers to deploy advanced services – particularly to the mass market – is through the operating local telephone company".[16] ALTS agrees, and notes that competitors, too, will need to rely on (unbundled and resale access to) the ubiquitous PSTN to make their advanced services offerings available on a broad scale. Bell Atlantic adds that use of the PSTN "allows the telephone companies to draw upon their existing work forces, expertise and operating and billing systems to deploy and operate these advanced services" and argues that the uneconomic duplication required by the Commission's separate affiliate proposal will create a barrier to the deployment of advanced telecommunications services to areas outside the nation's largest urban centers.[17]

Similarly, U S West argues that "forcing incumbents to behave like new entrants" will compromise their ability to bring advanced services to the mass market by denying them efficiencies that can be gained only by integrating advanced service technology with their existing network and support infrastructure.[18] ALTS submits that, if ILECs will have trouble justifying the cost of providing service to rural and high cost areas in which they already have loops, central offices and other facilities distributed, CLECs that face these additional duplication requirements may do no better. However, as Intermedia and other commenters note, the economics for serving marginal areas will be better if ILECs can count on revenues generated

16 Bell Atlantic Comments at 18-19.

17 *See id.* at 18-19, 21.

18 U S West Comments at 2-3.

from unbundled access and wholesale services provided to competitors.[19] Thus, as proposed in ALTS' initial comments, all of the network components necessary for end-to-end broadband access must remain with the ILEC and must remain subject to the unbundling and resale provisions of Section 251(c).[20]

B. The Structural Separations Requirements Proposed by the Commission Must Be Strengthened

The record demonstrates that nothing short of complete structural separation will limit potential ILEC discriminatory and anticompetitive activity and maximize the chances for the Commission, competitors and consumers to detect it. For example, the Federal Trade Commission and several state commissions submit that weak separations rules will thwart competition.[21] Indeed, there is substantial support for ALTS' position that the Commission should require significant outside ownership of any ILEC advanced services affiliate.[22] Level 3, MCI/WorldCom and many others suggest that divestiture, to varying extents, is the only way to guard against potential ILEC abuses and to square the Commission's proposal with Section 251(h) of the Communications Act.[23]

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19 Intermedia Comments at 60-62.

20 ALTS Comments at 30-31; HAI White paper at 48.

21 FTC Comments at 3; *see, e.g.,* Minnesota DPS Comments at 11-16.

22 *See, e.g.,* AT&T Comments at 20; CompTel Comments at 22-24; e.spire Comments at 11-12; ICG Comments at 8-15.

23 Level 3 Comments at 4-6 (arguing that true structural separation requires complete separation of ownership); MCI/WorldCom Comments at 37-43 (arguing that the Commission should require ILECs to completely spin-off advanced services affiliates); *see also, e.g.,* KMC Comments at 9 (advocating an AT&T-style transfer of ownership to stockholders); MGC Comments at 34-37 (calling for a divestiture in which wholesale and retail operations would be split along the lines of the proposal originally submitted by LCI); Mindspring Comments at 12-17 (calling for divestiture of last mile ownership); TRA Comments at 31-32 (calling for divestiture of majority ownership of affiliate).

In contract, the ILECs characterize the Commission's proposed structural separation safeguards for ILEC advanced services affiliates as unnecessary and too restrictive.[24] Reflecting the Commission's approach, the ILECs focus their arguments on the degree of separation necessary to circumvent their Section 251(c) obligations.[25] Ameritech, for example, argues that no structural separation is necessary.[26] In proposing structural safeguards, the Commission already (and correctly) rejected this position. Notably, two state commissions from Ameritech's home region filed comments in which they conclude that even the structural separations requirements may not be adequate. Specifically, in jointly filed comments by the Indiana and Wisconsin Commissions, those commissions -- based on the Indiana Commission's experience in conducting an arbitration in which Intermedia alleged anticompetitive conduct by Ameritech and its advanced data services affiliate -- concluded that even the structural separation safeguards proposed by the Commission may not prevent an ILEC and its advanced services affiliate from collaborating to stifle competition.[27]

To the extent they concede that any separations requirements are necessary, the ILECs generally argue for non-structural (accounting) separations.[28] U S West, for example, argues that an affiliate that complies with the Commission's *Competitive Carrier* regulatory framework sufficiently insulates the affiliate from the ILEC operations.[29] However, a state commission from U S West's own region provides an example of why competitive entry requires greater

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24 *See, e.g.,* GTE Comments at 9-10 (referring to the FCC 's "proposed hyper-separation rules").

25 *See, e.g.,* BellSouth Comments at 39.

26 Ameritech Comments at 49-53.

27 Indiana URC/Wisconsin PSC Comments at 6.

28 *See, e.g.,* Bell Atlantic Comments at 23.

29 U S West Comments at 25-26.

protections than U S West and other ILECs suggest. In its comments, the Minnesota Commission discusses U S West's preferential treatment of its own ISP affiliate and concludes that ILECs and their affiliates will conspire to give each other favorable treatment.[30] The incentives for and opportunities to discriminate against CLECs are no less evident in the context of ILEC affiliate provisioning of advanced data services. Accordingly, the Minnesota Commission and many other commenters join ALTS in urging the Commission to strengthen its structural separations safeguards and to refrain from granting ILEC advanced services affiliates nondominant status.[31]

Indeed, the record is rife with examples of why the structural separations proposed by the Commission must be strengthened (and enforced). For example, Covad and NorthPoint separately point out that ILECs already have filed federal ADSL tariffs which will effect a cost-price squeeze on their competitors.[32] As NorthPoint explains, none of the ILECs' federal ADSL tariffs reflects any of the exorbitant loop and collocation costs necessary to provide xDSL service, which the ILECs impose on CLECs.[33] As a result, ILECs are able to create a cost-price squeeze by offering ADSL service at retail rates that are lower than the charges ILECs impose on CLECs for the UNEs and collocation necessary to provide competitive xDSL services. To combat this problem, the Commission should require ILECs (or ILEC affiliates) providing advanced services to include the costs of monopoly inputs in their rates for such services.

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30 Minnesota DPS Comments at 7.

31 *Id.* at 11-16; ALTS Comments 17-37; HAI White Paper at 34-57; *see also, e.g.,* e.spire Comments at 7-20.

32 Covad Comments at 48; NorthPoint Comments at 35-39.

33 NorthPoint Comments at 35-39.

As noted above, many commenters called for divestiture, or at least a significant degree of outside ownership, as a means of establishing *truly* separate affiliates. ICG and others identify problems caused by allowing ILECs to create wholly-owned advanced services affiliates.[34] Notably, these affiliates need not make money. Indeed, because all money stays in the family and all transactions thus will be revenue neutral, ILECs can inflate the costs of UNEs and collocation purchased by their affiliates and, in turn, can impose these inflated costs on their competitors. Similarly, ILECs, through their affiliates, can offer their preferred customers advanced services custom service arrangements ("CSAs") that no efficient competitor can match, while relying on "plain old telephone service" revenue to assure that the overall ILEC entity generates a profit to subsidize the affiliate's below-cost offering. To combat cost shifting and predatory pricing, ALTS submits that the Commission must require that affiliates obtain advanced service UNEs through a tariff, and that the ILEC demonstrate that the UNE prices reflect statutory cost-based pricing principles by filing appropriate cost evidence 30 days prior to commencing service.[35]

The record also contains substantial support for many of ALTS' specific proposals for strengthening the FCC's proposed separations rules. For example, there is near universal support from non-ILEC commenters for ALTS' views that ILECs and their advanced services affiliates should be prohibited from: (1) jointly owning any facilities; (2) jointly marketing their services; or (3) sharing brand/corporate names or service marks; administrative functions; billing, purchasing and other operational functions; employees; management; research and development;

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34 ICG Comments at 7-8; *see also, e.g.,* Qwest Comments at 34-36.

35 ALTS Comments at 23.

intellectual property; and CPNI.[36] There is also widespread support for ALTS' view that ILEC affiliates must raise capital in the same manner as CLECs.[37] In this regard, ALTS agrees with those commenters who maintain that ILEC affiliates may not obtain credit from their ILEC parents.[38] Qwest and others joined ALTS in calling on the Commission to adopt measures necessary to combat the ability of an ILEC to favor its affiliate through volume commitments and terms that no competitors are able to meet.[39] Intermedia and others support ALTS' call for a prohibition on virtual collocation by an ILEC advanced services affiliate.[40] KMC, the Indiana and Wisconsin Commissions, and others echoed ALTS' request for FCC-mandated compliance plan filings by ILECs and their affiliates.[41]

ALTS also supports the imposition of other safeguards suggested by the competitive industry. In particular, ALTS shares the concerns of e.spire, CompTel and NextLink that ILECs could render interconnection useless to CLECs by including in interconnection agreements with their affiliates "poison pills" or terms and conditions that competitors would be unable or unwilling to meet. NextLink submits that ILECs should be required to tariff all aspects of their relationships with their advanced affiliates.[42] ALTS supports these proposals as methods of avoiding the "poison pill" problem.

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36 *E.g.*, Minnesota DPS Comments at 16; e.spire Comments at 9-10, 14-15; Hyperion Comments at 2-5; ICG Comments at 8-15; Intermedia Comments at 9-12; KMC Comments at 6-8; McLoed Comments at 4-6.

37 *E.g.*, MCI Comments at 44.

38 *E.g.*, Intermedia Comments at 10.

39 Qwest Comments at 46; *see also, e.g.*, e.spire Comments at 15-16.

40 Intermedia Comments at 40, 158; *see also, e.g.*, e.spire Comments at 32; Transwire Communications, Inc. Comments at 17.

41 KMC Comments at 11; Indiana URC/Wisconsin PSC Comments at 9, *see also, e.g.*, NextLink Comments at 11.

42 NextLink Comments at 11.

Predictably, the ILECs advance many proposals that would allow their advanced services affiliates to take advantage of ILEC efficiencies in a way that no independent CLEC could. Ameritech, for example, argues that it should be permitted to engage in joint marketing with its affiliate, and that it should be permitted to provide operation, installation and maintenance of equipment for its affiliate.[43] Bell Atlantic adds that there is no reason to restrict an affiliate's access to its parent's capital.[44] BellSouth and U S West suggest that customer accounts, employees and brand names can be shared.[45] SBC submits that joint ownership of facilities should be permissible.[46] GTE opposes outright the adoption of *any* of the Commission's proposed restrictions.[47] None of these suggestions, however, can be squared with the definition of "incumbent local exchange carrier" supplied by Congress in Section 251(h) – nor can they be reconciled with the Commission's goal of placing ILEC advanced services affiliates in the same position as independent CLECs.

C. *Any* Transfer Between an ILEC and Its Advanced Services Affiliate Would Make That Affiliate an Assign Subject to the Requirements of Section 251(c)

The record contains substantial support for ALTS' view that, under Section 251(h), *any* transfer from an ILEC to its advanced services affiliate would make that affiliate an assign

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43 Ameritech Comments at 54-56. Curiously, Ameritech also argues that its advanced services affiliate should be permitted to provide both data and interLATA services. *Id.* at 58; *see also* SBC Comments at 6-12. However, Ameritech provides no plausible theory on which it or any other Bell operating company can escape the interLATA restriction of Section 271 without first complying with that section.

44 Bell Atlantic Comments at 31.

45 BellSouth Comments at 44; U S West Comments at 33.

46 SBC Comments at 6-12.

47 GTE Comments at 28.

subject to the requirements of Section 251(c).[48] Notably, the Minnesota and Texas Commissions also maintain that ILEC transfers of customer accounts or CPNI would make an ILEC affiliate an assign.[49] There should be no time-limited or *de minimis* exception to the prohibition on transfers required by the definition of "ILEC" supplied in Section 251(h) of the Act. As KMC notes, the *de minimis* exception contemplated by the Commission is not even remotely *"de minimis"*.[50] In this regard, ALTS reiterates its view that there is no meaningful distinction between an outright transfer of assets to an affiliate, or the acquisition of facilities by the affiliate.[51] In the event that the Commission does permit transfers in some form, ALTS agrees with KMC and others who suggest that ILECs should be required to offer any equipment available for transfer to all CLECs on a nondiscriminatory basis.[52] In no case, however, should the Commission permit an ILEC to transfer to its affiliate facilities necessary to provide competitors with unbundled access to the functionalities required to provide competitive broadband access.[53]

Regarding transfers, the ILECs again attempt to eliminate any practical distinction between themselves and their affiliates by suggesting that all -- or at least some -- transfers should be permitted. BellSouth, for example, argues that the Commission should allow a one-time transfer of facilities and should allow unrestricted transfers of customer accounts to its

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48 ALTS Comments at 26; *see also* ACTA Comments at 3-7; CompTel Comments at 9-14, 33-35.

49 Minnesota DPS Comments at 16; Texas PUC Comments at 3-4.

50 KMC Comments at 5.

51 ALTS Comments at 30.

52 *Id.* at 8; *see also, e.g.,* MCI/WorldCom Comments at 56.

53 ALTS Comments at 30.

advanced services affiliate.[54] Bell Atlantic argues that there is no reason to restrict the transfer of equipment, information or CPNI between it and its affiliate.[55] U S West adds that customer accounts, employees and brand names should be freely transferable.[56] GTE, again, opposes all restrictions.[57] However, all of these arguments are made in the absence of any rational discussion of how they can be reconciled with Section 251(h) and the Commission's reasons for determining that, in some instances, ILECs can create affiliates that are not themselves ILECs.

II. THERE IS UNANIMOUS SUPPORT AMONG COMPETITIVE CARRIERS FOR MORE EFFICIENT AND COST-EFFECTIVE ALTERNATIVES TO TRADITIONAL PHYSICAL COLLOCATION

The record in this proceeding demonstrates a remarkable consensus among competitive carriers that existing collocation rules and practices must be reformed if the Commission is to pursue the Communication's Act's mandate to promote advanced telecommunications capabilities. ALTS addresses the proposals of various commenters below.

A. The FCC Has Ample Authority to Establish National Minimum Standards for Collocation – State Commissions Should Retain the Flexibility to Adopt Additional Collocation Requirements

The Commission's authority to establish national minimum unbundling standards cannot be seriously challenged. Indeed, most ILECs merely question the merit of additional national rules and do not challenge the Commission's authority to adopt them. However, Ameritech goes so far as to challenge the Commission's authority to reform and enhance its *own* national

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54 BellSouth Comments at 43-44.

55 Bell Atlantic Comments at 28-31.

56 U S West Comments at 33.

57 GTE Comments at 28.

collocation rules.[58] Nevertheless, it cannot be seriously doubted that the Commission has ample authority to adopt collocation rules under both Sections 201 and 251.[59] This is confirmed by the fact that the Commission already has national collocation standards in place.[60] Indeed, it has been four years since the Commission adopted national standards for virtual collocation in the *Expanded Interconnection* proceeding.[61] In so doing, the Commission concluded that the Act "authorizes the Commission where necessary or desirable in the public interest, to order common carriers to establish physical connections with other carriers" and found that Sections 4(i) and 214(d) provide supplemental authority to order expanded interconnection arrangements, including physical and virtual collocation.[62]

Significantly, the 1996 amendments to the Act expanded the Commission's authority to set national standards for collocation by expressly directing the Commission to promulgate rules implementing the ILECs' Section 251(c) interconnection obligations, which include an express obligation to provide physical collocation.[63] Under this authority, the Commission promulgated national collocation rules (based on the existing Expanded Interconnection rules), which unequivocally were upheld by the U.S. Court of Appeals for the Eighth Circuit. Specifically, the Eighth Circuit held that "the Commission's rules and policies regarding the incumbent LECs' duty to provide for physical collocation of equipment [are] consistent with the Act's terms

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58 Ameritech Comments at 32.

59 KMC Comments at 13.

60 47 C.F.R. §§ 51.323, 64.1401, 61.1402.

61 *Expanded Interconnection with Local Telephone Company Facilities*, Memorandum Opinion and Order, 9 FCC Rcd 5154, ¶ 18 (rel. July 25, 1994) [hereinafter "*Virtual Collocation Order*"].

62 *Id.* ¶¶ 18, 20.

63 47 U.S.C. § 251(d)(1).

contained in subsection 251(c)(6)."[64] Thus, Commission precedent and the Eighth Circuit's *Iowa Utilities Board* decision dispositive confirm that the Commission possesses the requisite authority to reform and expand its national collocation standards.

Notably, the Illinois Commerce Commission filed comments supporting the FCC's proposal to adopt national minimum standards, provided that the Commission recognized the states' rights to impose additional requirements necessary to promote efficient competition in the local exchange market.[65] The Texas and Minnesota Commissions expressed similar support for the FCC's adoption of additional national rules.[66] Significantly, in its *Local Competition Order,* the Commission already concluded that the state commissions should have the flexibility to adopt additional collocation requirements that are otherwise consistent with the Act and the FCC's requirements.[67] ALTS concurs with the Illinois Commerce Commission and supports the Commission's tentative conclusion that the states should continue to have such authority with respect to new national minimum collocation requirements adopted in this proceeding.[68] As demonstrated by the record in this proceeding and the discussion below, the states have provided – and should continue to provide – important guidance in identifying collocation alternatives and practices necessary to facilitate efficient competitive entry.

In endorsing the FCC's proposed adoption of additional national unbundling rules, the Illinois Commission also proposed that the Commission adopt a waiver procedure that would

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64 *Iowa Utilities Bd. v. FCC*, 120 F.3d 753, 818 (8th Cir. 1997), *cert. granted*, sub nom. AT&T Corp. v. Iowa Utilities Bd., 118 S.Ct. 879 (1998).

65 Illinois CC Comments at 8, 10.

66 Texas PUC Comments at 7; Minnesota DPS Comments at 17.

67 *NPRM,* ¶ 122.

68 *Id.* ¶ 124.

allow state commissions to deviate from national minimum standards, if necessary.[69] ALTS is not opposed to the Commission's adoption of such a provision, provided that the ILECs seeking such waivers are required to carry the burden of demonstrating why compliance with the national minimum standards is not technically feasible.

B. Competitors Support the Commission's Proposed Collocation Reforms and the Adoption of Additional Measures Identified in State Proceedings

The competitive community unanimously supports the Commission's proposed collocation reforms. Many competitors urged the Commission to go further by adopting additional innovative collocation practices and alternatives identified in state commission proceedings. As set forth below, ALTS believes that adoption of each of the identified collocation alternatives and practices will facilitate competitive entry by minimizing space constraints and maximizing opportunities for efficient collocation by competitors.

Cageless Collocation. The record indicates that the competitive community is unanimous in its support for cageless collocation.[70] ALTS agrees with Covad that this proposal may be the single most effective way for the industry and regulators to combat space exhaustion problems in ILEC central offices.[71] Notably, U S West confirms that it already makes cageless

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69 Illinois CC Comments at 8, 10.

70 *E.g.,* Allegiance Comments at 4-5; AT&T Comments at 7-9; Cable & Wireless Comments at 11-13; CIX Comments at 24; Covad Comments at 17-19, 32; CTSI Comments at 9; e.spire Comments at 24; GST Comments at 31-32; ICG Comments at 21-25; Intermedia Comments at 31; KMC Comments at 16; MCI/WorldCom Comments at 65; MGC Comments at 24-29; Rhythms Netconnections Comments at 28-30; TRA Comments at 40; Transwire Comments at 22-32.

71 Covad Comments at 32.

collocation available to competitors.[72] GTE also supports cageless collocation (so long as it does not take the form of common space collocation).[73] Because these comments demonstrate that cageless collocation is technically feasible and highly important to the CLEC community, cageless collocation should be incorporated into a list of nationally mandated collocation alternatives.

Shared Cages and Cage Subleasing. Here, too, the record contains substantial support for incorporating shared collocation and cage subleasing.[74] Notably, GTE is among the carriers that supports this collocation alternative, and the record shows that Bell Atlantic has committed to such arrangements in New York. Again, ALTS believes that no plausible objections to incorporating this collocation alternative into national minimum standards have been or can be raised.

Adjacent Collocation. ALTS agrees with e.spire, NextLink, Rhythms and others who call on the Commission to incorporate adjacent or nearby collocation in its national minimum standards.[75] As e.spire explained, there are two general varieties of adjacent collocation. With

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72 U S West Comments at 40. ALTS notes, however, that some of its member report that U S West is backsliding from making such arrangements available.

73 GTE Comments at 66-73. Bell Atlantic takes a similar position. *See* Bell Atlantic Comments at 32. "Common space" collocation is a form of physical collocation in which CLEC equipment is not physically separated from ILEC equipment. While ALTS applauds these ILECs' support for cageless collocation, as ALTS discusses below, opposition to common space collocation is not supportable under the Communications Act.

74 *E.g.*, AT&T Comments at 83; ICG Comments at 26; Intermedia Comments at 26; MGC Comments at 24-29; Qwest Comments at 58; Rhythms Netconnections Comments at 28-30.

75 *E.g.*, e.spire Comments at 25; Nextlink Comments at 16; Rhythms Netconnections Comments at 30-31; MGC Comments at 24-29.

the first, "Adjacent On-Site Collocation", the ILEC builds a structure on the same property as the central office and permits CLECs to place their equipment in this structure. The ILEC then provides a connection for CLEC equipment to the MDF in the central office. The second form of adjacent collocation, "Adjacent Off-Site Collocation" involves the construction or rental by either the ILEC or CLEC of property near the central office, but not on the same property as the central office. Adjacent collocation provides CLECs with the same functionality as direct collocation while eliminating concerns over security or space exhaust. Having this alternative available will give CLECs more opportunity to optimize the available collocation arrangements. Thus, ALTS submits that the Commission should identify adjacent collocation as one of the options that must be made available to CLECs seeking physical collocation.

Common Area Collocation. ALTS agrees with Covad and other carriers who support the incorporation of common area collocation into national minimum standards. As Covad explains, the separation of CLEC bays from ILEC bays on a bay-to-bay basis is sufficient separation.[76] ALTS believes that ILEC objections to this form of collocation based on "network security" concerns are overstated[77] and can be addressed adequately through video cameras and electronic badge tracking.[78] Moreover, as Covad notes, since the time of the AT&T divestiture, AT&T and RBOC equipment in central offices often have been separated only by painted lines on the floor.[79] The record contains no evidence of a history of security problems caused by this arrangement.

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76 Covad Comments at 28.

77 *E.g.*, GTE Comments at 66-73.

78 *E.g.*, e.spire Comments at 30.

79 Covad Comments at 28.

Small Space Collocation. The comments demonstrate widespread support for limiting arbitrary ILEC minimum space requirements through the incorporation of a small space collocation alternative in national standards.[80] For example, Level 3 argues for no minimum space requirements.[81] GTE also supports this collocation alternative, but suggests a minimum of 25 square feet.[82] While both proposals represent a vast improvement over the 100 square foot minimums CLECs frequently face, ALTS believes that the former provides competitors and ILECs alike with more flexibility and thus should be adopted.

Presumptively Feasible Collocation Arrangements. Many competitors suggest that the Commission should establish presumptions of feasibility with regard to collocation arrangements provided by ILECs or required by state commissions.[83] Specifically, ALTS agrees with NorthPoint and other competitors who support the Commission's adoption of a rule finding that if one type of collocation is offered by an ILEC, it is presumed technically feasible for all ILECs to offer it.[84] Recognizing that "one size" may not fit all, ALTS submits that the presumption should be rebuttable – any ILEC wishing to demonstrate technical reasons why it cannot accommodate a particular method of collocation should be directed to make its case in a contested proceeding before the Commission or the relevant state regulatory agency.

Efficient Space Management Requirements. The record demonstrates significant support for incorporating formal central office space management principles into the

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80 *E.g.,* GST Comments at 30-32; ICG Comments at 21-25; MGC Comments at 24-29; NorthPoint Comments at 7-15; Sprint Comments at 19.

81 Level 3 Comments at 8-13.

82 GTE Comments at 66-73.

83 *See, e.g.,* ACTA Comments at 6-19; Allegiance Comments at 2-3; AT&T Comments at 73; e.spire Comments at 25; NorthPoint Comments at 7-15.

84 NorthPoint Comments at 7-15.

Commission's national minimum standards.[85] ALTS agrees that the Commission can (and should) ease space exhaustion problems and facilitate competitive entry by adopting such standards. In particular, ALTS concurs with Allegiance, NorthPoint and other commenters who support adoption of rules that would require ILECs to: (1) remove obsolete and unused equipment from central offices; (2) remove non-critical administrative functions and offices from central offices; (3) make collocation a design criterion for new or expanded central offices. ALTS also agrees with NorthPoint and other carriers who submit that ILECs should be made to comply with existing anti-warehousing rules, and should be prohibited from warehousing unlimited space for potential future needs.[86]

Pro-Rata Charges for Space Preparation. The record contains significant support for adopting the New York Commission's approach regarding ILEC recovery of collocation space preparation costs.[87] Specifically, ALTS recommends that the Commission incorporate into its national minimum standards rules governing ILEC recovery of nonrecurring costs for collocation, including the conditioning of central office space. ILECs typically recover all costs associated with the conditioning of collocation space from the first CLEC to collocate, even though the space has been conditioned to serve many future collocators. The New York Commission, however, determined that this practice is anticompetitive and constitutes a barrier to entry. Thus, the New York Commission ruled that Bell Atlantic may charge the initial

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85 *E.g.*, Allegiance Comments at 5-6; AT&T Comments at 88; NorthPoint Comments at 7-15; Sprint Comments at 15-16.

86 NorthPoint Comments at 15-16; *see also, e.g.*, AT&T Comments at 88-89; ICG Comments at 25-27.

87 *E.g.*, Covad Comments at 28-29; e.spire Comments at 32; Intermedia Comments at 43-44; NorthPoint Comments at 7-15; Sprint Comments at 16.

collocator no more than its *pro rata* share of space preparation costs.[88] ALTS supports the elevation of this standard to a national minimum requirement.[89]

Unrestricted Cross-Connects Between Collocated CLECs. ALTS joins many competitors in their calls for Commission adoption of a national rule designed to curb cumbersome and costly ILEC limitations on CLECs' ability to interconnect with each other in the same collocated space or between different areas of the same central office.[90] As ICG noted, ILECs frequently attempt to impose unnecessary racking and equipment requirements in circumstances where CLECs can easily use "jumper cables" to connect their equipment without any involvement of the ILEC.[91] Some ILECs will not permit CLECs to cross-connect equipment collocated on different floors of a central office. Instead, CLECs must pay the ILEC for cabling, racking, and installation at the ILEC's tariffed rate, which typically is much more expensive than what it would cost the CLECs to do the work themselves.[92] ALTS supports carriers' requests seeking adoption of a national rule barring any such limits on cross-connection and recommends that the Commission adopt rules similar to those put in place by the Texas Commission.[93] Under the Texas rules, CLECs may install their own cross-connections, even in instances where two CLEC collocation arrangements are located on separate floors or are otherwise noncontiguous.

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88 *See* Intermedia Comment at 43-44.

89 ALTS notes that Ameritech supports this approach. Ameritech Comments at 44. However, GTE and the Texas Commission argue to maintain the right to impose a "first-in" penalty. *See* GTE Comments at 75-76; Texas PUC Comments at 11.

90 *E.g.*, e.spire Comments at 25-26; ICG Comments at 16-20; Intermedia Comments at 27-28, 39; Level 3 Comments at 8-13; Texas PUC Comments at 8.

91 ICG Comments at 25-27.

92 *See* e.spire Comments at 25.

93 *Id.*, *see also* Texas PUC Comments at 8.

Like the Texas rule, the FCC's rule should provide that CLECs *themselves* should be allowed to perform all installation associated with the cross-connects.

Floor Plans and Tours to Verify ILEC Claims of Space Exhaustion. ALTS agrees with MCI/WorldCom and other competitors that support the adoption of a national standard that requires ILECs to submit detailed floor plans and grant CLEC requests to tour central offices to verify claims of space exhaustion.[94] Indeed, the Commission's proposed requirement that would allow CLECs to conduct a walk-through of ILEC premises to verify claims of space exhaustion enjoys substantial support from the competitive community.[95] Covad submits that most ILEC claims of space exhaustion are factually incorrect.[96] Other ALTS members have echoed Covad's frustrations. Although ILECs including Ameritech and Bell Atlantic support a requirement to provide floor plans to support claims of space exhaustion, they oppose having to demonstrate space exhaustion to requesting CLECs in a face-to-face, on-premises meeting.[97] ALTS, however, submits that the industrial espionage arguments raised by ILECs in defense of their objections are far-fetched, as ILECs could provide escorts to meet their own security needs.[98] Bell Atlantic's argument that such walk-throughs might reveal that ILECs or competitors are warehousing space (in a manner inconsistent with the Commission's rules) actually cuts in favor of adopting the Commission's proposed walk-through rule, not against it.[99]

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94 MCI/WorldCom Comments at 6.

95 *E.g.,* e.spire Comments at 28-29; ICG Comments on 25-27; Intermedia Comments at 43; KMC Comments at 18; Sprint Comments at 18; *see also* Illinois CC Comments at 10; Texas PUC at 12.

96 Covad Comments at 6 (recounting how SBC's Pacific Bell unit reversed its claims of space exhaustion when faced with an antitrust lawsuit).

97 Ameritech Comments at 46; Bell Atlantic Comments at 41-42.

98 *See, e.g.,* Bell Atlantic Comments at 41-42.

99 *Id.*

Collocation Space Report. ALTS agrees with AT&T and other competitors who maintain that the Commission should require ILECs to issue and maintain a collocation report on space utilization and availability.[100] Such reports would aid CLECs in planning their entry strategies and should mitigate space warehousing problems. GTE resists the proposed requirement on the grounds that carriers can find out if space is available in other ways. ALTS sees no reason to validate this or any other attempt to "hide the ball".[101] Competitors should have access to the same information GTE or any other ILEC has access to – adopting a collocation space report requirement is not unduly burdensome and it would go a long way toward eliminating discriminatory ILEC control over and delay associated with obtaining collocation space information.

Collocation Intervals and Liquidated Damages. The record shows significant support for the adoption of national minimum collocation performance intervals and for associated liquidated damages provisions, in the event of noncompliance.[102] The Texas Commission has adopted a 35 day interval for SBC's provisioning of collocation.[103] In addition, the Texas Commission is considering rules that allow CLECs to obtain liquidated damages from ILECs who miss provisioning intervals for collocation arrangements.[104] ALTS concurs with Intermedia that adoption of the Texas collocation interval and liquidated damages provisions will facilitate

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100 AT&T Comments at 88; *see also, e.g.,* Allegiance Comments at 5-6.

101 GTE Comments at 73-75.

102 *E.g.,* Covad Comments at 28-29; e.spire Comments at 26; Level 3 Comments at 8-13; MGC Comments at 29-33; NextLink Comments at 23; NorthPoint Comments at 7-15; Sprint Comments at 17.

103 Intermedia Comments at 29.

104 *Id.*

competition by giving ILECs an incentive to provide collocation arrangements in a timely manner, and by providing CLECs with some recourse when intervals are missed.

In addition to establishing liquidated damages requirements, the Commission should also adopt as a national standard that ILECs should waive nonrecurring installation charges in cases where they miss a promised provisioning interval or service turn-up date. Most of the large ILECs have tariffed policies by which they waive nonrecurring charges for their retail customers of special access and fiber-ring services when promised due dates are missed.[105] Adoption of a similar requirement therefore would be consistent with standard ILEC business practices, would prevent discrimination against CLECs vis-à-vis retail customers, and would provide at least some incentive for ILECs to meet promised due dates for deploying network elements and services that are of critical importance to CLECs.

Extended Link. ALTS joins e.spire and Intermedia in calling on the Commission to adopt the Extended Link (sometimes referred to as the "enhanced extended link" or "EEL") as a UNE that will facilitate competitive entry by eliminating some of the need for scarce collocation space.[106] The Extended Link arrangement makes it possible for CLECs to reach customers through a single transmission facility composed of a loop, multiplexing, and transport that extends to the customer premise from the CLEC's point of interface. Alternatively, Extended Link may consist of transport to and from an ILEC central office, with central office

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105 *See* BellSouth Telecommunications, Inc. (TN), Private Line Services Tariff § B2.417(B) (eff. Mar. 20, 1996); BellSouth Telecommunications, Inc. (GA), Private Line Services Tariff § B2.417(B) (eff. Jan. 14, 1997); Southwestern Bell Telephone Company, FCC Tariff No. 73 § 2.5.5(A) (eff. Mar. 24, 1996).

106 e.spire Comments at 23, 34; Intermedia Comments at 24-25.

multiplexing. Through its use of Extended Links in the BellSouth territory, e.spire has been able to utilize collocation in one central office to serve end users via unbundled facilities derived from multiple end offices. This eases ILEC collocation space constraints while allowing CLECs to extend the reach of their service offerings beyond commercial centers by reducing the exorbitant costs associated with having to collocate in every ILEC central office. Notably, BellSouth refuses to renew interconnection agreements with provisions enabling e.spire to order Extended Links. However, in New York, Bell Atlantic has committed to providing Extended Links on a voluntary basis.[107] In light of the tremendous benefits the Extended Link provides in easing collocation space constraints and burdens, ALTS submits that the Commission should define the Extended Link as both a required collocation alternative and as a UNE.

C. The Record Supports Removal of Restrictions on the Types of Equipment that May Be Collocated

ALTS supports the removal of restrictions on the types of equipment that can be collocated and submits that national minimum standards must be adopted to curb ILEC attempts to upend competitive entry through the unilateral imposition of such limitations. As discussed below, ALTS concurs with those commenters who call for rules that would: (1) enable collocation of equipment that incorporates switching with hubbing, multiplexing and routing functions; (2) eliminate restrictions on IP protocol conversion equipment; and (3) require compliance with NEBS safety requirements (or any lesser standard used by the ILEC), but not performance requirements. ALTS also agrees with those commenters seeking reform of the current virtual collocation rules.

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107 *See* Intermedia Comments at 24.

1. To Provide Competitive Data Networks, CLECs Must Be Able to Collocate Equipment that Incorporates Switching, Hubbing, Multiplexing and Routing Functions

The record contains substantial support for modification of the Commission's collocation rules so that CLECs can collocate multifunction and switching equipment integral to the deployment of competitive data networks.[108] Similarly, many competitors call for elimination of the restriction on collocation of IP protocol conversion equipment.[109] Section 251(c)(6) requires ILECs to provide just, reasonable, and nondiscriminatory "physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier." In light of the Commission's (correct) determinations that "the pro-competitive provisions of the 1996 Act apply equally to advanced services and to circuit-switched voice services" and that "Congress made clear that the Act is technologically neutral and is designed to ensure competition in all communications markets",[110] ALTS believes that Section 251(c)(6) of the Act authorizes the Commission to require the collocation of RSMs, DSLAMs and routers. The rapid convergence of packet-switched and circuit switched networks compels this conclusion: As Allegiance notes, the Commission should permit competitors to collocate any kind of telecommunications equipment used for voice and data services.[111]

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108 *E.g.*, CompTel Comments at 38-40; Covad Comments at 17-19; e.spire Comments at 27-28; IAC Comments at 17-19; ICG Comments at 16-20; Intermedia Comments at 32-36; NorthPoint Comments at 3-7; Qwest Comments at 53; Sprint Comments at 7-12; *see also* Texas PUC Comments at 8..

109 *E.g.*, Allegiance Comments at 3-4; AT&T Comments at 77; Intermedia Comments at 32.

110 *Advanced Service Order*, ¶ 11.

111 Allegiance Comments at 3-4.

2. To Protect ILEC Networks, the Commission Should Allow ILECs to Require Compliance with NEBS Safety Standards, to the Extent that the ILEC Complies with Those Standards Itself

ALTS agrees with Covad and other competitors supporting adoption of a rule that would allow ILECs to require compliance with NEBS safety standards, to the extent that the ILEC complies with those standards itself.[112] In particular, the Commission should establish a presumption that any equipment used by an ILEC – or its affiliate or subsidiary – may be collocated by a CLEC collocation cage, whether or not such equipment is NEBS compliant. ALTS also supports the commenters that maintain that it would be improper to permit ILECs to unilaterally impose any reliability standards (including NEBS performance standards) – or any other "stamps of approval" on collocated equipment.[113] There are no valid reasons why an ILEC should have any role in mandating the performance reliability standards of its competitors.

III. THE RECORD DEMONSTRATES UNANIMOUS SUPPORT AMONG COMPETITIVE CARRIERS FOR UNIFORM, COMPREHENSIVE REQUIREMENTS FOR UNBUNDLED NETWORK ELEMENTS, AND SUPPORTS ALTS' CALL FOR A "BIT-STREAM" FUNCTIONAL UNE

The record provides overwhelming support for the establishment of additional UNEs.[114] ALTS believes that the comments also demonstrate a compelling need to establish additional national standards to reflect the experience gained by the Commission and its state counterparts over the past two years. Already, the Commission has taken a substantial step forward by

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112 *E.g.,* Covad Comments at 24-25; *see also, e.g.,* Allegiance Comments at 3-4; e.spire Comments at 28; Intermedia Comments at 37.

113 Allegiance Comments at 3-4; Covad Comments at 24-25; e.spire Comments at 28; Intermedia Comments at 37; *see also* ALTS Comments at 45.

114 *E.g.,* e.spire Comments at 33-46; ICG Comments at 33; Intermedia Comments at 47-49.

clarifying that advanced services and facilities are telecommunications services subject to Section 251(c), and by affirming its longstanding requirement that ILECs have an affirmative duty to provide competitors with unbundled access to conditioned loops.[115] Despite this, however, competitors remain largely unable to gain access to conditioned-loops necessary to support advanced service offerings, such as those based on xDSL. By enhancing and expanding its unbundling rules further, ALTS believes that the Commission will create a competitive environment of clarity and certainty – an environment that is necessary for competitive entry into both the local voice and advance services markets. Significantly, the Minnesota and Texas Commissions both recognize the importance of maintaining national minimum standards on which they can build to meet particular needs in their respective states.[116]

As numerous commenters note, the Commission has ample authority to define additional UNEs and to clarify the obligations imposed by its existing UNE rules.[117] Indeed, a number of commenters point out that the Eighth Circuit recently confirmed the Commission's authority to prescribe functional UNEs that may incorporate a number of discrete elements that are themselves defined as separate UNEs.[118] ALTS submits that the Commission should use its clear authority to define network elements and require unbundling to establish a "Bit-stream" UNE and an "Extended Link" UNE. Moreover, the Commission should clarify that the unbundled loop and interoffice transport functionalities to which ILECs must provide

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115 *Advanced Services Order*, ¶ 32.

116 Minnesota DPS Comments at 19; Texas PUC Comments at 12.

117 *E.g.*, e.spire Comments at 33; Intermedia Comments at 48-49.

118 *Id., citing Southwestern Bell Tel. Co. v. FCC*, 153 F.2d 597 (8th Cir. 1998) ("Pursuant to section 251 (d)(2), it is within the authority of the FCC to determine which of these network elements – *the facilities, functions, or both* – incumbent LECs must make available on an unbundled basis." (emphasis added)).

competitors access include loops composed of both "fiber to the curb" and "fiber to the home", as those systems are deployed instead of, or in addition to, copper-based xDSL technologies, as well as optical interoffice transport. Consistent with current law, pricing for these UNEs will be set by the states. Thus, by defining additional UNEs and by clarifying the obligations imposed with respect to existing ones, the Commission will bolster a standardized national framework for local competition, while respecting the joint state/federal jurisdiction established in the Act. ALTS discusses these issues in greater detail below.

A. "Bit-stream" Functionality Must Be Provided In Addition to Currently Defined UNEs

In its initial comments, ALTS proposed the adoption of a "Bit-stream" UNE as a national standard, to supplement the existing stable of UNEs that already have been established by the Commission and state regulators.[119] As described in the HAI White Paper appended to the ALTS comments, the Bit-stream UNE provides a broadband channel between the end user's customer premise and the CLEC's interconnection, and offers CLECs the *functionality* that enables them to provide broadband services to end users, regardless of the loop or central office technology used by the ILEC. Because the proposed UNE is technology-neutral, it supports a variety of entry strategies for facilities-based competition. As ALTS discusses below, the record in this proceeding contains substantial support for this type of approach, and demonstrates that the Bit-stream UNE will provide a valuable tool to support the introduction of advanced telecommunications services in local markets.

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[119] ALTS Comments at 57-58; HAI White Paper at 75-80 and *passim*.

1. The Bit-stream UNE Should Be Defined in a Manner Consistent With the FCC's Functional Approach to Defining UNEs

The Bit-stream UNE constitutes a virtual circuit that runs from the end users' premises to a point designated by the CLEC. The Bit-stream UNE should be made available at capacities that define current advanced service applications, starting at a minimum of 256 kbps (the speed used by some ADSL applications), and including DS1 and DS3, and optical speeds ranging from OC3 – OC48, as technology allows and as CLEC service offerings require. Once the Commission establishes the Bit-stream UNE as a nationally-applicable standard, it would be referred to state regulatory bodies to establish the applicable rates and charges. As is the case with all FCC-defined UNEs, state regulators may add to the functional requirements of the Bit-stream UNE, in a manner consistent with the FCC's basic definition.

ILECs should be required to hand off the requested Bit-stream at a point designated by the CLEC where natural interfaces exist along the ILEC network. As discussed in ALTS' Comments such natural interfaces are logical points of interconnection that exist in the local loop, interoffice transport, and points of aggregation and routing.[120] These natural points of interface include:

- A CLEC point of interface, which may be a CLECs collocated arrangement in an ILEC central office; at the CLEC's office or node outside an ILEC central office; or a controlled environmental vault, equipment cabinet, fiber pedestal or other point where feeder plant interfaces with distribution plant;

- The point of connection between the ILEC's broadband switch and its interoffice transmission terminal within an ILEC central office or switching hub;

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120 HAI White Paper at 85-86.

- The point of interconnection between the broadband access termination (*i.e.*, DSLAM) and the broadband switch within an ILEC central office or switching hub;

  The end of the broadband loop access facility, which may be a digital subscriber line access multiplexer, optical line terminating multiplexer, 1/0 or 3/1 multiplexer, digital loop carrier equipment, or other terminal in the ILEC central office;

- The remote end of the broadband loop access system, which may again consist of an optical line terminating multiplexer, digital loop carrier equipment, or other terminal located at the remote terminal of the broadband loop; or

- Customer side of the NID or other access termination point.

The record includes significant support for the Bit-stream approach proposed by ALTS. As ALTS discusses in a previous section, a number of CLECs have asked the Commission to adopt the Extended Link UNE as a national standard,[121] and Extended Link (or similar functionalities) are now available from Southwestern Bell in Texas and from Bell Atlantic in New York. While the Extended Link is a more narrow application that the ALTS Bit-stream proposal, the concept – the provisioning of a virtual circuit from the end user premises, through the ILEC end office, to the CLEC's point of presence – is identical. Moreover, as a number of parties have noted, this functional approach to defining UNEs has recently been approved by the U.S. Court of Appeals for the Eighth Circuit.[122]

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121 e.spire Comments at 23, 34; Intermedia Comments at 24-25. Intermedia also asks the Commission to adopt rules requiring ILECs to provision virtual high capacity circuits to CLECs in cases where it is not possible to hand off a physical unbundled loop. Intermedia Comments at 56-57. This approach effectively calls for the Bit-stream application promoted by ALTS.

122 *Id.*, citing Southwestern Bell Tel. Co. v. FCC, 1998 WL 459536 (8th Cir. Aug. 10, 1998).

2. Benefits of the Bit-stream UNE Approach

a. The Bit-stream UNE provides a technology-neutral approach that will allow CLECs to obtain access to end users to provide any kind of advanced services currently available, or that may be developed in the future

Most of the parties filing comments in the instant proceeding support the Commission's finding in the *Advanced Services Order* that Congress intended the Communications Act to be technology-neutral,[123] and that implementation of the Act cannot favor any particular technology.[124] In light of these Commission determinations, however, a number of commenters have expressed concern that the NPRM's tentative conclusions and proposed rules regarding collocation and UNEs focus too narrowly on xDSL-based services and technologies.[125] ALTS shares this concern and notes that any regulatory approach that is too narrowly tailored to a specific technology will soon become obsolete.[126] Indeed, the record of this proceeding, as well as the "round table discussions" sponsored by the Commission over the last few weeks, have made clear that recent developments in technology, such as the integration of packet switching

123 *Advanced Services Order*, ¶11.

124 *Id.*, ¶ 41.

125 *E.g.*, e.spire Comments at iii, 38, 40-41; SBC Comments at 43; PageNet Comments at 7.

126 HAI White Paper at 74, 78.

capability into voice switches, indicate that solutions focusing on current xDSL technology will yield only temporary solutions.[127]

The Bit-stream UNE is a viable solution to this problem because it is inherently technology-neutral. Under the Bit-stream approach, the ILEC is obligated to hand off a channel that provides the CLEC the ability to provide broadband service to an end user – the technology over which the ILEC provides this capability, and the network architecture used to do so, are left to the ILEC's discretion. Under this approach, the ILEC's ability to select the make and model of its advanced services equipment is unfettered. As long as the CLEC receives a circuit to the end user at the capacity it requires, the underlying technology used is irrelevant to the CLEC. The Bit-stream UNE, therefore, will remain a constant that will continue to be available to CLECs no matter what new technologies are introduced into ILEC networks.

b. The Bit-stream UNE reduces ILECs' ability to manipulate technology in an anticompetitive manner

The comments submitted by the largest ILECs proffer multiple reasons why it may not be technically possible for a CLEC to provide advanced services over a given loop. For example, Ameritech argues that subloop unbundling creates numerous technical and operational problems that may make such unbundling for the provision of xDSL-based services impractical.[128]

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127 For example, a number of commenters have provided the Commission with detailed diagrams of typical xDSL applications, which involve the deployment of signal splitters or DSLAMs in the central office, and have proposed methods of deriving unbundled loops or streams of data or voice service over such arrangements. *E.g.*, _AT&T Comments at 67-68; Qwest Comments at 66-67. ALTS is grateful to these commenters for the quality and depth of information that they have lent to the record of this proceeding, and is supportive of interconnection alternatives that would derive loops at these points. Nevertheless, as packet switching becomes integrated into traditional voice switches in the future, it will be necessary to establish an alternative to these methods of deriving loops.

128 Ameritech Comments at 18-19.

BellSouth asks the Commission to find that ILECs are not required to provide assurances that CLECs will be able to provide DSL-based services over the loops they obtain from ILECs.[129] GTE simply argues that it is not feasible to provide unbundled loops if they are provisioned over a digital loop carrier system,[130] and objects to any requirement to establish databases for pre-qualifying DSL-capable loops for use by CLECs.[131] All of these same sentiments were conveyed by ILEC representatives in the round table discussions recently sponsored by the Commission.

ALTS is concerned that the ILECs are setting up these arguments as a means of denying – or at a minimum delaying – CLECs from interconnecting and obtaining UNEs for the purposes of providing competitive advanced services. For example, at the same time the ILECs are arguing that the deployment of IDLC or other digital loop carrier technology makes it impossible to provision unbundled loops, they are actively introducing this technology in new construction, and are upgrading existing loops to run over IDLC systems. Similarly, while some ILECs are arguing that they should not be required to establish special databases that will allow CLECs to pre-qualify DSL-capable loops, they have already developed – or are now developing – such databases to support the offering of their own end user ADSL services.[132] These arguments suggest that ILECs are in the position to favor, and have every intention of favoring, the

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129 BellSouth Comments at 48.

130 GTE Comments at 92-97.

131 *Id.* at 82-83.

132 *Compare* GTE Comments at 82-83 (objecting to any obligation to establish databases of DSL-capable loops for use by CLECs) *with* Bell Atlantic Comments at 45 (stating that it is preparing such databases and that it will make them accessible by CLECs).

deployment of technologies and network configurations that would delay, restrict or eliminate the ability of CLECs to obtain advanced service UNEs.

These concerns are not hypothetical. In fact experience has shown that ILECs regularly make network decisions that are influenced by competitive strategy. As ALTS described in its initial comments, when ILECs began to roll out ISDN services in the 1980s, they had to choose between two technical variations. One of the varieties was compatible with PBX systems, while the other was compatible with the central office-based CENTREX service. Following divestiture, the Bell operating companies began an aggressive roll out of their CENTREX services, and at the same time, began to deploy the ISDN technology that advantaged CENTREX – and disadvantaged PBX – throughout their networks.[133] This example makes clear that ILECs have the ability and incentive to manipulate the technology they deploy and the network architectures they favor in ways that disadvantage competitors. Because the Bit-stream UNE approach is not tied to any particular technology or network design, it effectively eliminates the potential for this form of anticompetitive conduct.

c. The Bit-stream UNE provides an alternative entry strategy for CLECs in cases where technical disputes defeat or delay the ability to obtain other UNEs

As discussed above, the ILECs' initial comments are replete with arguments asserting the difficulty of deriving unbundled loops off IDLC systems or of providing CLECs with access to

133 HAI White Paper at 49-50.

databases identifying DSL-capable loops, and otherwise calling into question the technical feasibility of providing interconnection and UNEs for the provision of competitive advanced services. Although these arguments successfully have been countered by competitors in this proceeding, they do raise one substantial concern. The rules and technical solutions the Commission ultimately prescribes will take time to implement. In an environment where ILECs aggressively are rolling out their own xDSL-based services, such delay can have profoundly anticompetitive effects on the competitive local service industry.

The Bit-stream UNE proposed by ALTS presents an effective and immediately available solution to this problem. Because the ILECs are able to provide a virtual channel to end users regardless of the technology they deploy, they are in a position to provide the Bit-stream now, without waiting for damages in OSS databases, or the development of procedures for IDLC unbundling. The Bit-stream solution will be available on the same schedule as the ILECs are rolling out the underlying technology, even in cases where disputes over IDLC unbundling or OSS access remain unresolved. The Bit-stream, therefore, offers all CLECs an alternative means for achieving market entry, even if only on a temporary basis, pending resolution of technical disputes.

ALTS emphasizes however that the Bit-stream UNE is not intended to supplant unbundled local loops and other UNEs that have already been defined by the Commission and state regulators. Rather, the Bit-stream UNE is another option that should be made available to CLECs. The availability of the Bit-stream dramatically will increase early market entry opportunities for CLECs and will support a wide variety of business strategies. Ultimately, however, it is not a replacement for the ILEC provision of bundled loops, both narrowband and broadband, to CLECs who desire to deploy their own facilities to the extent possible.

B. The Commission Should Define an Extended Link UNE

As indicated in the ALTS' discussion of collocation alternatives, ALTS supports e.spire's and Intermedia's view that the Commission should define an Extended Link UNE.[134] In effect, the Extended Link is a limited form of Bit-stream, that has already been deployed and is currently in use by CLECs. As e.spire and Intermedia explain, use of the Extended Link in BellSouth territory and in Texas and the New York Commission's experience working toward developing an Extended Link function (Bell Atlantic has agreed to provide it on a "voluntary" basis) demonstrate that it provides an important functionality – composed of loop, multiplexing and transport, or just transport and multiplexing – that can maximize the number of customers that can be reached through a single collocation arrangement.[135] Thus, in addition to alleviating space constraints in ILEC end offices, unbundled access to such functionality also will accelerate and expand competitors' roll outs of both traditional voice and advanced services offerings.

To ensure that defining an Extended Link UNE will have its intended effect, the Commission should preempt ILEC attempts to limit its usefulness by refusing to incorporate loops and transport capable of supporting advanced applications.[136] For example, Extended Links that incorporate 4-wire digital loops and fiber transport will be most useful to CLECs seeking to expand their broadband services offerings. Thus, consistent with the Commission's task under Section 706, this new national minimum unbundling rule should require ILECs to offer Extended Links for all loop and transport types. Moreover, because the functionality defined varies depending on whether the loop component of the Extended Link UNE employs

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134 e.spire Comments at 41-42; Intermedia Comments at 47-49.

135 *Id.*

136 *Id.*

"home run" copper or a DLC configuration, ILEC attempts to limit access on the basis of that technology-based distinction – or any other – also should be prohibited.

C. The Commission Should Clarify ILECs' Existing Obligations to Provide Unbundled Access to 2- and 4- Wire "Clean Copper" Loops, Fiber to the Curb and Home, and Optical Interoffice Transport

ALTS supports the Commission's functional approach to defining UNEs and applauds the Commission for clarifying that ILEC advanced services and facilities are subject to the interconnection, unbundling and resale provisions of Section 251(c) of the Communications Act. However, ALTS believes that ILECs require additional guidance to assist them in fully implementing and complying with the obligations imposed by that section.

1. CLECs Remain Largely Unable to Gain Access to 2- and 4-Wire Conditioned Loops

The Commission should provide guidance with regard to loop types and classes that must be unbundled pursuant to the Commission's existing loop definition.[137] Indeed ALTS' members consistently find that, while a number of ILECs ostensibly offer "ADSL-" and "HDSL-loops", those loops are neither equipped with the electronics to provide such services nor are they "conditioned" in a way that enables competitors to provide them.[138]

Indeed, despite a wide variety of unbundled loops that have been mandated by state regulatory bodies, a number of CLECs have been informed by their ILEC account teams that conditioned, "clean" two- and four-wire copper loops are not available. ILECs typically use labels, such as "HDSL", "ADSL" or "DS1," as a means for inflating loop costs without

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137 e.spire Comments at 39-41; Intermedia Comments at 53-56; *see also , e.g.,* AT&T Comments at 41.

138 e.spire Comments at 39-41; Intermedia Comments at 53-56.

providing any additional functionality.[139] Nevertheless, it remains critical that CLECs have access to four types of loops: 2-wire analog, 2-wire digital, 4-wire analog, and 4-wire digital. Moreover, 2- and 4-wire digital loops must be made available in both (without electronics) conditioned, and electronically equipped (with electronics) varieties.[140]

2. The Commission's Existing Loop Definition Imposes an Obligation on ILECs to Offer Unbundled Access to Fiber to the Curb and Home

ALTS supports those commenters who call on the Commission to make clear that the fiber ILECs are increasingly deploying in their own loop plant must be unbundled pursuant to the Commission's existing loop definition.[141] Indeed, there is little question that the fiber that ILECs are deploying directly to large customer locations, business parks, or government or educational campuses must be unbundled pursuant to the Commission's functional and technology-neutral definition. Because such fiber deployment generally takes the form of "fiber to the home" (a fiber loop extending all the way to the premises) or "fiber to the curb" (a fiber loop ending close to, but not at, the individual customer's premises), the Commission should make clear that ILECs must offer both varieties on an unbundled basis.

139 *See, e.g.*, e.spire Comments at 39.

140 AT&T Comments at 41.

141 *E.g.*, Allegiance Comments at 11-14; Level 3 Comments at 8-13; MCI Comments at 79-84; Qwest Comments at 63-74; *see also* Allegiance NOI Comments at 16-17.

3. The Commission's Existing Interoffice Transport Definition Imposes an Obligation on ILECs to Provide Unbundled Access to Provide Interoffice Transport at SONET Speeds

Based on the record, ALTS requests that the Commission clarify that, under its existing definition of interoffice transport, ILECs cannot refuse to offer unbundled access to optical interoffice transport. As a number of CLECs point out, many ILECs take the position that they are not obligated to provide interoffice transport at speeds above DS1 or DS3.[142] However, the Commission's functional and technology-neutral interoffice transport unbundling requirement is not subject to capacity-based limitations or exclusions.[143] Indeed, unbundled access to high capacity transport at optical speeds of OC-3 to OC-48 and above is necessary to support competitive broadband service deployment on a mass scale. The Commission should make clear that ILECs cannot hinder competitive deployment of advanced services by denying unbundled access to such transport.

D. The Commission should define digital subscriber line access multiplexers ("DSLAMs") as independent UNEs

ALTS supports the view of MCI-WorldCom and Qwest that the Commission should define DSLAMs as a distinct UNE.[144] As MCI-WorldCom notes, without such access, an ILEC and their advanced services affiliates would have the ability to leverage the ILEC's bottleneck

142 *E.g.*, AT&T Comments at 40, 50-54.

143 *See* 47 C.F.R. § 51.319(d)(1)(2); *In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd. ¶¶ 428, 439-451 (1996).

144 MCI-WorldCom Comments a 22-24; Qwest Comments at 64-65.

monopoly by using the affiliates as the vehicles to invest in new technology that supports advanced services, while the ILEC's standard services are allowed to degrade the circuit-switched network. At the same time, the ability of CLEC's to deploy their on DSLAMs would be greatly limited due to lack of collocation space at remote terminals, and the shear number of remote terminal at which CLECs would need to install their own DSLAMs. Thus, competitive provision of advanced services requires access to ILEC DSLAMs as UNEs.

E. The Record Demonstrates the Importance of Access to OSS and Other Sources of Information Regarding Advanced Service-Capable Loops

ALTS strongly supports those commenters who emphasize the need to obtain information necessary to determine which loops are capable of providing DSL-based services.[145] Some ILECs, however, argue that such information is not readily available, and that it is necessary to dispatch technicians to physically examine individual loops to determine whether they are DSL-capable.[146] ALTS is skeptical of such claims. Indeed, Bell Atlantic's website offers loop qualification information to potential subscribers to its ADSL service immediately, and without charge.[147] For Bell Atlantic's customers, obtaining such information is as easy as entering a ten digit phone number and clicking on "submit".[148] Moreover, Bell Atlantic provides this service free of charge. This provides prima facie evidence that ILECs can obtain loop information quickly and without significant cost.

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145 *E.g.*, ICG Comments at 29-32; e.spire Comments at 35-36.

146 *E.g.*, SBC Comments at 30-31.

147 <http://www.bell-atl.com/adsl/index.html>.

148 *Id.*

The Commission's current OSS rules require ILECs to make available, in electronic form, whatever information they currently have.[149] Moreover, ALTS believes that, in order to facilitate the deployment of competitive advanced services offerings, the Commission should find that access to loop specifications –including loop length, cable gauge, and the presence of bridged taps, loading coils or other impediments – is an essential OSS feature, and that ILECs are obligated to provide access to a database that contains such information.[150]

The Commission also should take action to prohibit ILECs from imposing excessive charges on CLECs for identifying DSL-capable loops. If an ILEC already has the information requested, the Commission should make clear that the ILEC can charge competitors no more than a nominal fee to recover the cost of making it available electronically. If an ILEC has the ability to obtain the requested information electronically and without the dispatch of engineers or technicians, the Commission should prohibit the ILEC from imposing dispatch charges on its competitors. The Commission also should establish that the charge for loop conditioning information should be cost-based and nonrecurring. Finally, if an ILEC does not charge its advanced services end users a similar nonrecurring charge, it should not be permitted to impose one on CLECs.[151]

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149 Intermedia Comments at 49-50; *see also* e.spire Comments at 35-36.

150 *See* ICG Comments at 29, 32.

151 *See* Intermedia Comments at 50; e.spire Comments at 36. In ADSL tariffs recently filed with the Commission by BellSouth, Pacific Bell, U S West and Bell Atlantic, no ILEC tariffed a nonrecurring charge for inspections to determine whether existing loops were DSL-capable.

IV. THE RECORD DEMONSTRATES THE NEED FOR MEASURES TO ENFORCE THE SEPARATIONS, INTERCONNECTION, COLLOCATION AND UNE STANDARDS THAT THE COMMISSION MAY ADOPT

The record shows overwhelming support for ALTS' view that the Commission needs to accompany all of its proposals with a commitment to rigorous and meaningful enforcement.[152] ALTS concurs with those commenters who express the view that the Commission has the requisite jurisdiction to hear and adjudicate all disputes involving its rules.[153] Specifically, ALTS agrees that, in order to maximize the effectiveness of its newly established Accelerated (or "Rocket") Docket, the Commission preemptively should strike ILEC arguments that all such disputes must allege violations of state commission-approved interconnection agreements and, as a result, can only be heard by state commissions.[154] Such arguments are baseless and already have wasted far too much of the Commission's and competitors' resources in settlement negotiations now taking place under Accelerated Docket procedures.[155]

Moreover, use of the Accelerated Docket will be of paramount importance in cases where state commissions have limited jurisdiction. Many state regulatory commissions do not have authority to regulate the activities of an ILEC's affiliates or subsidiaries. For example, the Texas Commission's authority is expressly limited by statute to merely accessing the records of Southwestern Bell's unregulated subsidiaries.[156] Thus, the Texas Commission's jurisdiction is

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152 ALTS Comments at 42, *see also, e.g.,* e.spire Comments at 26; MGC Communications at 13, 45-46; Intermedia Comments at 8, 14-15; Covad Comments at 28; Rhythms Comments at 23-26.

153 *E.g.,* e.spire Comments at 42.

154 *Id.*.

155 *Id.*

156 *See* TEX. UTILITIES CODE ANN. §§ 14.003, 14.154, 53.058 (1998).

so limited that it allows it to do nothing more than disallow associated affiliate expenses in Southwestern Bell's rate-making proceedings.[157] Similarly, the Utah Commission is prohibited from regulating the provision of "new" telecommunications services by U S West or its affiliates or subsidiaries.[158]

These examples make it clear that, while the Commission should consider adopting rules and policies established by state regulators, it cannot rely on state regulators in all cases to provide adequate oversight of ILEC advanced services affiliate organizational structures and transactions.[159] As a result, the Commission must ensure that adequate enforcement mechanisms *and meaningful remedies* are in place to address violations of the rules it adopts. Specifically, the Commission should take action to: (1) establish that it has jurisdiction and that the Accelerated Docket will be made available to hear complaints involving alleged violations of any ILEC advanced services affiliate rules it may adopt; (2) specify that affiliates found to be obtaining services from the ILEC on a preferential basis will be prohibited from offering new services for a period of at least six months; (3) specify that, for ILECs that use services or facilities from affiliates to provide advanced services, violation of the separate affiliate rules will result in a suspension of providing new advanced services for a period of at least six months; and (4) establish fines that will automatically apply upon a finding of violation of the affiliate rules.[160]

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157 *Id.*

158 Comments of the Coalition of Utah Independent Internet Service Providers, CC Docket No. 98-146, at 5-6 (filed Sept. 14, 1998).

159 Intermedia Comments at 8.

160 *Id.*

CONCLUSION

ALTS urges the Commission to adopt rules and policies consistent with the foregoing discussion regarding the comments filed on the Commission's tentative conclusions and requests for additional proposals to promote local competition and ensure the timely deployment of advanced telecommunications capability.

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CERTIFICATE OF SERVICE

I, John J. Heitmann, hereby certify that I have served a copy of the "Reply Comments of Association for Local Telecommunications Services this 16th day of October, 1998, upon the following parties *via* hand delivery:

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